

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

EXITEXCHANGE CORP.

Plaintiff,

v.

FRIENDFINDER NETWORKS, INC. et al.

Defendants.

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Case No. 2:13-CV-396-JRG-RSP

**LEAD CASE**

**DOCKET CONTROL ORDER**

In accordance with the scheduling conference held in this case, it is hereby ORDERED that the following schedule of deadlines is in effect until further order of this Court<sup>1</sup>:

March 9, 2015	*Jury Selection – 9:00 a.m. in <b>Marshall, Texas</b>
January 26, 2015	*Pretrial Conference – 9:00 a.m. in <b>Marshall, Texas</b>
January 21, 2015	*Notify Court of Agreements Reached During Meet and Confer  The parties are ordered to meet and confer on any outstanding objections or motions <i>in limine</i> . The parties shall advise the Court of any agreements reached no later than 1:00 p.m. three (3) business days before the pretrial conference.
January 19, 2015	*File Joint Pretrial Order, Joint Proposed Jury Instructions, Joint Proposed Verdict Form, and Responses to Motions <i>in Limine</i>

<sup>1</sup> The portion of this action asserted against Friendfinder Networks, Inc. is subject to an automatic bankruptcy stay. See Suggestion of Bankruptcy, Docket number 24, dated September 18, 2013.

January 12, 2015	<p>*File Notice of Request for Daily Transcript or Real Time Reporting.</p> <p>If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Shelly Holmes, at shelly_holmes@txed.uscourts.gov.</p>
January 9, 2015	<p>File Motions <i>in Limine</i></p> <p>The parties shall limit their motions <i>in limine</i> to issues that if improperly introduced at trial would be so prejudicial that the Court could not alleviate the prejudice by giving appropriate instructions to the jury.</p>
January 9, 2015	Serve Objections to Rebuttal Pretrial Disclosures
December 29, 2014	Serve Objections to Pretrial Disclosures; and Serve Rebuttal Pretrial Disclosures
December 15, 2014	Serve Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof
November 17, 2014	<p>*File Dispositive Motions or Motions to Strike Expert Testimony (including <i>Daubert</i> Motions)</p> <p>No dispositive motion or motion to strike expert testimony (including a <i>Daubert</i> motion) may be filed after this date without leave of the Court.</p>
November 17, 2014	Deadline to Complete Expert Discovery
October 27, 2014	Serve Disclosures for Rebuttal Expert Witnesses
November 10, 2014	Deadline to Complete Fact Discovery and File Motions to Compel Discovery
October 6, 2014	Serve Disclosures for Expert Witnesses by the Party with the Burden of Proof
September 22, 2014	*Deadline to File Letter Briefs Regarding Dispositive Motions
July 23, 2014	<p>Deadline to Complete Mediation</p> <p>The parties are responsible for ensuring that a mediation report is filed no later than 5 days after the conclusion of mediation. <i>See</i> L.R. App. H.</p>

August 6, 2014	Comply with P.R. 3-7 (Opinion of Counsel Defenses)
June 25, 2014	*Claim Construction Hearing – 1:30 p.m. in <b>Marshall, Texas</b>
June 11, 2014	*Comply with P.R. 4-5(d) (Joint Claim Construction Chart)
June 4, 2014	*Comply with P.R. 4-5(c) (Reply Claim Construction Brief)
May 28, 2014	Comply with P.R. 4-5(b) (Responsive Claim Construction Brief)
May 14, 2014	Comply with P.R. 4-5(a) (Opening Claim Construction Brief) and Submit Technical Tutorials (if any)
May 14, 2014	Deadline to Substantially Complete Document Production and Exchange Privilege Logs  Counsel are expected to make good faith efforts to produce all required documents as soon as they are available and not wait until the substantial completion deadline.
April 30, 2014	Comply with P.R. 4-4 (Deadline to Complete Claim Construction Discovery)
April 23, 2014	File Response to Amended Pleadings
April 9, 2014	*File Amended Pleadings  It is not necessary to seek leave of Court to amend pleadings prior to this deadline unless the amendment seeks to assert additional patents.
April 17, 2014	Comply with P.R. 4-3 (Joint Claim Construction Statement)
March 12, 2014	Comply with P.R. 4-2 (Exchange Preliminary Claim Constructions)
February 19, 2014	Comply with P.R. 4-1 (Exchange Proposed Claim Terms)
December 9, 2013	Comply with P.R. 3-3 & 3-4(b)(Invalidity Contentions)
November 12, 2013	Comply with P.R. 3-4(a)
September 26, 2013	*File Proposed Protective Order and Comply with Paragraphs 1 & 3 of the Discovery Order (Initial and Additional Disclosures)
September 19, 2013	*File Proposed Docket Control Order, Proposed Discovery Order, and Notice of Mediator
September 12, 2013	Join Additional Parties

September 6, 2013	Comply with P.R. 3-2
August 22, 2013	Comply with P.R. 3-1

(\*) indicates a deadline that cannot be changed without showing good cause. Good cause is not shown merely by indicating that the parties agree that the deadline should be changed.

### ADDITIONAL REQUIREMENTS

**Notice of Mediator:** The parties are to jointly file a notice that identifies the agreed upon mediator or indicates that no agreement was reached. If the parties do not reach an agreement, the Court will appoint a mediator. The parties should not file a list of mediators to be considered by the Court.


**Summary Judgment Motions:** Prior to filing any summary judgment motion, the parties must submit letter briefs seeking permission to file the motion. The opening letter brief in each of those matters shall be no longer than five (5) pages and shall be filed with the Court no later than the deadline for filing letter briefs. Answering letter briefs in each of those matters shall be no longer than five (5) pages and filed with the Court no later than fourteen (14) days thereafter. Reply briefs in each of those matters shall be no longer than three (3) pages and filed with the Court no later than five (5) days thereafter. The Court may decide the question on the submissions or hold a hearing or telephone conference to hear arguments and to determine whether the filing of any motion will be permitted. Letter briefs shall be filed without exhibits. Any requests to submit letter briefs after the deadlines outlined above must show good cause.

**Indefiniteness:** In lieu of early motions for summary judgment, the parties are directed to include any arguments related to the issue of indefiniteness in their *Markman* briefing, subject to the local rules' normal page limits.

**Motions for Continuance:** The following excuses will not warrant a continuance nor justify a failure to comply with the discovery deadline:

- (a) The fact that there are motions for summary judgment or motions to dismiss pending;
- (b) The fact that one or more of the attorneys is set for trial in another court on the same day, unless the other setting was made prior to the date of this order or was made as a special provision for the parties in the other case;
- (c) The failure to complete discovery prior to trial, unless the parties can demonstrate that it was impossible to complete discovery despite their good faith effort to do so.

**So ORDERED and SIGNED this 4th day of November, 2013.**

  
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 RODNEY GILSTRAP  
 UNITED STATES DISTRICT JUDGE